

**2003 Annual Report**  
**Of the Lawyer Assistance Program**  
**Of the State Bar of California**

**In Compliance with Bus & Prof. Code § 6238**  
**March 1, 2004**

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# Mission Statement

The mission of the Lawyer Assistance Program is to support recovering attorneys in their rehabilitation and competent practice of law, enhance public protection, and maintain the integrity of the legal profession.

## II. Introduction

This is the second Annual Report of the Lawyer Assistance Program (LAP) of the State Bar of California, as required by Section 6238 of the Business and Professions Code. The Report includes information concerning the number of cases of attorney participants accepted, denied, or terminated with compliance or noncompliance, and annual expenditures related to the Program. It also addresses the development of the Program in its second year, its status at the end of 2003, and its plans for 2004.

## III. Executive Summary

The number of attorneys seeking help from the Lawyer Assistance Program continued to grow rapidly in its second year of operation; the number of participants in the program doubled from the end of 2002 and the number of calls for brief counseling services tripled. Especially welcome was the notable increase in the percentage of calls to the Program from attorneys who were self referred. This is an achievement that is critical to moving the Program toward the ultimate goal of attracting impaired attorneys prior to discipline involvement, thus preventing harm to clients and decreasing the overall number of cases that must be sent to the disciplinary process.

While expanding operations to meet this rapidly increasing demand, the Lawyer Assistance Program also focused on solidifying its policies and procedures, striving for peak performance in every aspect of its operations. The LAP Oversight Committee and LAP staff also devoted substantial time this last year to developing the long-term strategic goals and working plan for the Program. The LAPIS (Lawyer Assistance Program Information System) database went online, allowing the rapidly growing program to centralize all participant information in one highly secure, dedicated database independent from the State Bar computer system. In addition to serving as a case management tool, LAPIS will be used to safeguard participant data, facilitate communications with staff statewide, and identify important trends and patterns for analysis and areas of potential improvement.

The LAP established a structure for outreach to the bar membership, the bench and the public, required by its enabling statute, by developing a strategic communications plan in collaboration with the consulting firm MWW Group. Together staff and MWW conducted several focus group sessions, a State Bar member survey, and a Strategic Positioning Workshop. The Strategic

Communications Plan that resulted from this effort will guide the Program's outreach in 2004.

All of these efforts reinforced the Program's accomplishment of its paramount purpose this last year, to protect the public and the profession by fostering and supporting the recovery of individual attorneys one at a time, one day at a time. Many participants already appreciate the hope it provides and the role it plays in their recovery. A typical comment comes from one who entered only a few months ago: "The structure and accountability have been good for me. My life has already changed in a positive and meaningful way."

## IV. Program Overview: How It Works

The Lawyer Assistance Program was created by the California Legislature in 2001 (Bus. & Prof. Code §§ 6140.9; 6230-38) as a result of Senate Bill 479 introduced by Sen. John Burton, president Pro Tem of the California State Senate (Appendix A). SB 479 was passed by the legislature and signed into law effective, January 1, 2002. Shortly after its startup, the LAP implemented an optimal assistance model to help participants as soon as they make that first call.

Attorneys may enter the LAP during a pending disciplinary proceeding or voluntarily by self-referral. All participation in the LAP is completely voluntary and **strictly confidential**. An attorney who calls the LAP is assigned to a local Case Manager, who is a professional clinician experienced in the areas of substance abuse and mental health. The Case Manager immediately addresses any life-threatening issues, handles medical needs and provides emotional support.

A new participant immediately begins attending the closest LAP professionally facilitated peer group meeting and other local abstinence-based self-help programs. Within a week the participant has an intake session with the Case Manager. The newcomer is referred to medical and psychiatric professionals for evaluation if indicated.

Experience shows that these early interactions are essential to helping break through the denial that often characterizes these disorders, fostering the formation of critical personal alliances and friendships to lessen the isolation and shame that is typical of those afflicted, and reinforcing central elements of early recovery.

The participant meets regularly with the Case Manager, weekly with a professionally facilitated group, and more frequently with other abstinence-based self-help groups. Inpatient or outpatient treatment begins, if indicated, with financial help by the LAP if necessary. The attorney meets with an Evaluation Committee (a physician, a clinician, and a local attorney experienced in recovery), which reviews reports from the Case Manager, Group Facilitator, evaluators, and treatment facilities, and meets with the participant. The individualized components of the participant's long-term recovery program are then determined, and the attorney signs a participation agreement.

The Case Manager, Group Facilitator, and Evaluation Committee follow the participant throughout his or her program of structured recovery, and the Committee eventually determines whether the participant has successfully completed the Program. This unique process ensures continuity of treatment and provides a multidisciplinary perspective. The process avoids some of the challenges faced by a sole clinician providing assessment and monitoring, which may include perceived power struggles, personality clashes and resistance to authority. It also invites the participant to become part of the recovery team.

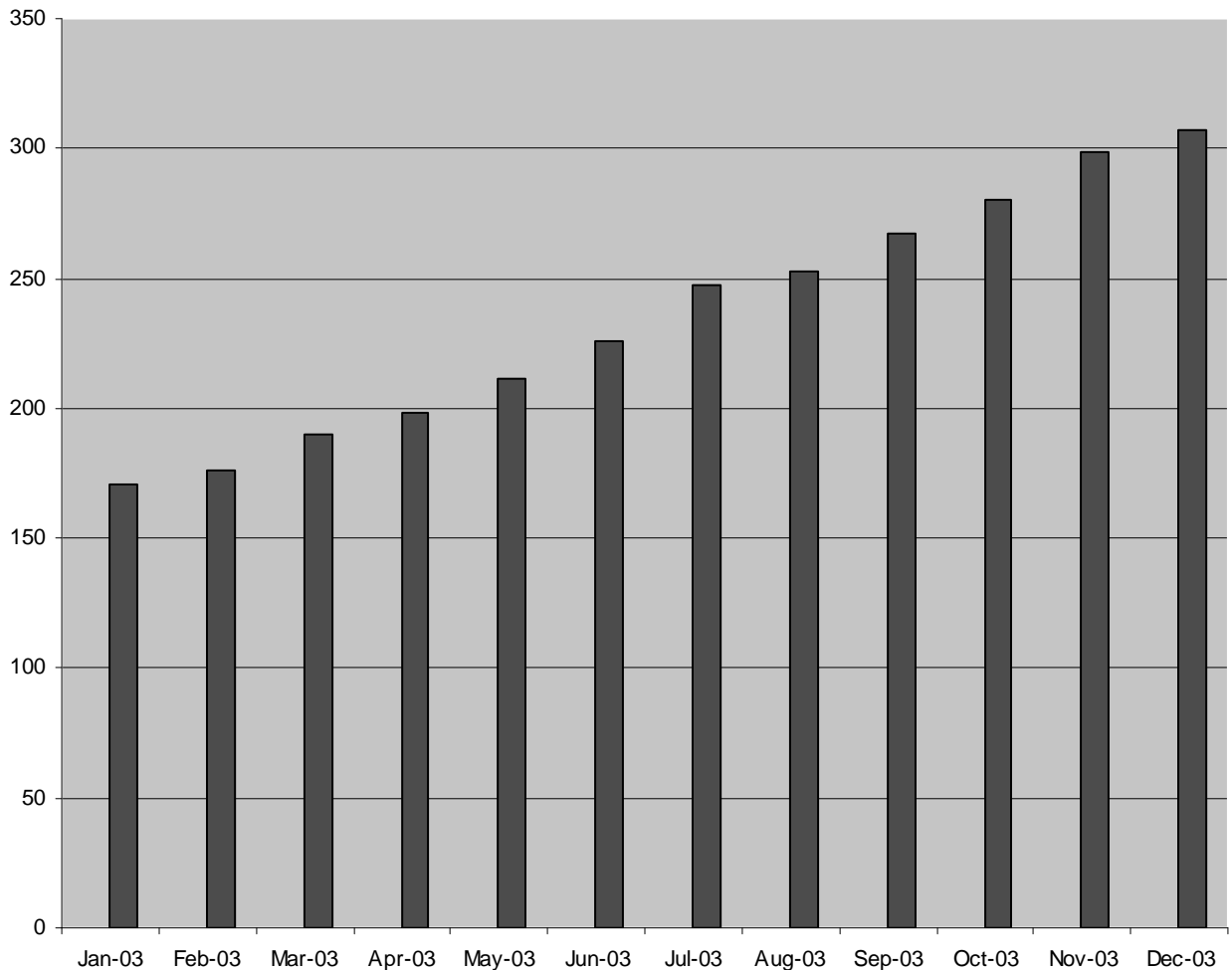
The LAP offers all State Bar members brief counseling (up to three sessions free of charge) with a local therapist who specializes in working with legal professionals. This counseling service addresses common problems such as stress, burnout, marital conflicts, and career concerns, and is intended to identify and treat potential problems at the earliest possible stage.

# V. 2003: The Second Year

## 1. Statistics

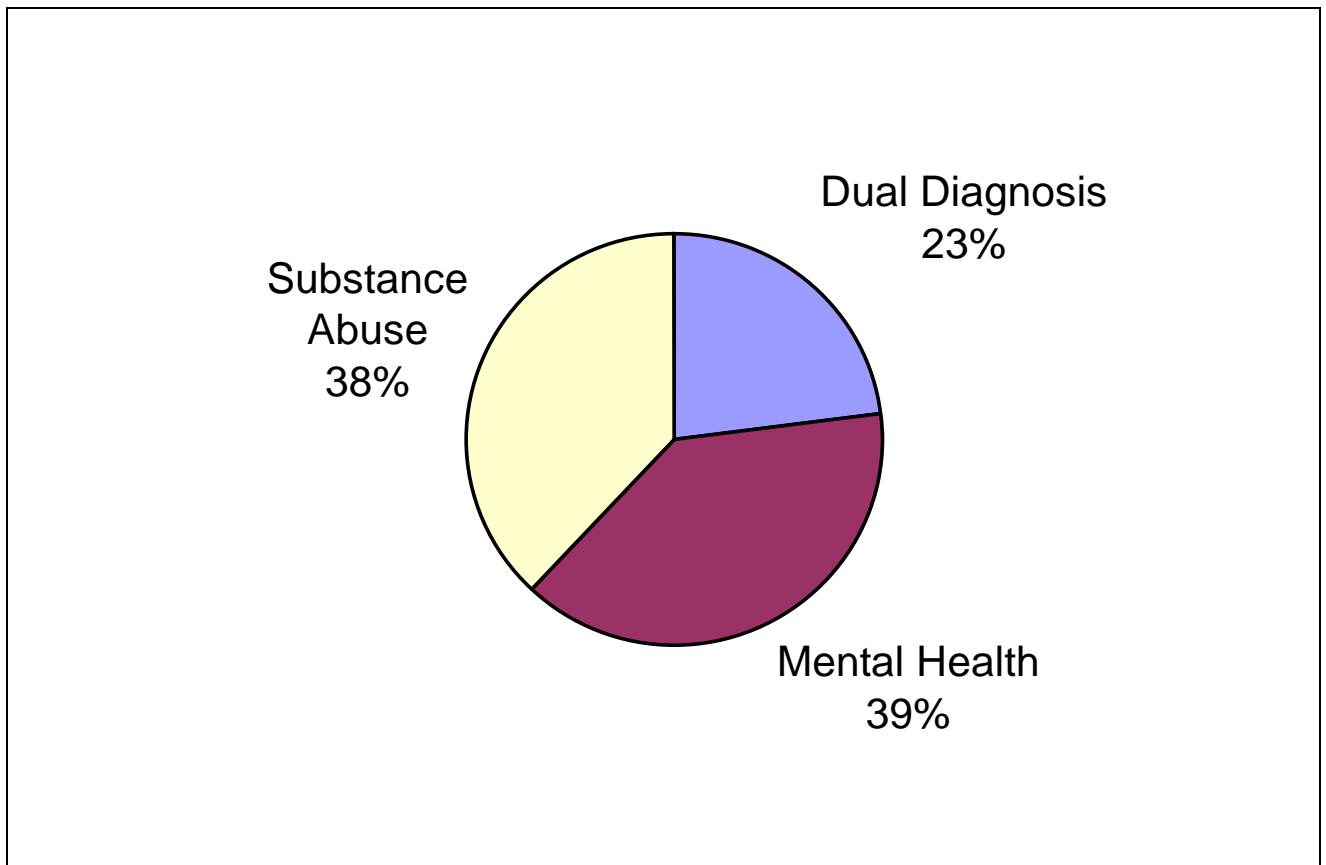
LAP outreach efforts have had exceptional results in increasing the number of contacts initiated by members of the Bar and others. Intake-related calls grew steadily and totaled over 300 by the end of the year. Calls to the brief counseling service tripled in 2003. Calls for Program information also grew at a healthy pace. The growth in participants is graphically represented in the chart below.

**LAWYER ASSISTANCE PROGRAM**  
**2003**  
Cumulative Number of Participants



The number of participants with mental health issues has been much higher than anticipated. One-third of those participating have a mental health diagnosis with no substance abuse. Approximately one-third have both mental health and substance abuse issues (dual diagnosis). The distribution of these diagnoses is represented in the chart below.

### Participant Diagnoses



The number of professionally facilitated group meetings increased substantially to meet the needs of the rapidly growing number of participants. There are now 18 meetings each week across the state. A roster of current Group Facilitators is attached as Appendix E.

The work of the Evaluation Committees also expanded significantly during the year. The Program successfully recruited nine additional professionals -- attorneys, therapists, and physicians, all with experience in recovery -- to serve as volunteers on the LAP Evaluation Committees. Statewide, the Program's three Evaluation Committees (one in the North, two in the South) met 24 times



and considered 119 cases. A roster of current Evaluation Committee members is attached as Appendix D.

## 2. Outreach

The statute requires the LAP to actively engage in outreach, targeted advertising and the development of no-cost and low-cost MCLE materials to make its availability and resources known to the profession, the public and the judiciary (Bus. & Prof. Code § 6236). During 2003, under the direction of the Oversight Committee and assisted by marketing consultants, staff developed a long-term Strategic Communications Plan to be implemented beginning in 2004. In the meantime the Program used all available media to reach its designated constituencies:

- ❑ In 2003 the LAP greatly increased communication to Bar members, making more than 30 presentations of its purpose, operations and availability and providing Minimum Continuing Legal Education (MCLE) credit to approximately 1500 attendees;
- ❑ The Program produced MCLE materials distributed by the California Bar Journal through its self-study MCLE program, resulting in 1000 responses from lawyers;
- ❑ At the Annual Meeting in September, in conjunction with the Other Bar, the LAP made four one-hour MCLE presentations to over 500 attendees, including members and judges;
- ❑ The Program sent descriptive materials to all 193,000 members of the California State Bar in the annual dues mailing.
- ❑ The July issue of the *California Bar Journal* featured an article describing the stress and career challenges faced by many attorneys and highlighting the brief career counseling services offered by the LAP to address these problems. By the end of the year more than 300 attorneys responded to this article by calling the Program's brief counseling intake line, yielding a three-fold increase in the number of callers for this service over the prior year. The article is Appendix G to this Report.
- ❑ The November issue of the *California Bar Journal* featured an extensive article by Richard Carlton, the Program's Deputy Director, describing the substance abuse and mental health related disorders the Program addresses, explaining the denial typical of victims of these disorders and noting the high incidence of these conditions among lawyers. Mr. Carlton's article described the LAP, detailed the help it offers, provided contact

information and urged those interested to call.

- ❑ In cooperation with the California Judicial Education and Research Division of the Administrative Office of the Courts, the Program contracted for and produced a videotape to inform California judicial branch bench officers and employees about the existence and resources of the LAP. The video and additional materials will be made available to California state and federal judges and court employees as part of the outreach initiative in 2004.
- ❑ At the invitation of the Office of the Chief Trial Counsel, a training seminar was conducted to enhance staff familiarity with the Program. Chief Trial Counsel Mike Nisperos arranged for his full staff to participate.

### 3. LAPIS

A major accomplishment, one critical to a program growing so fast, was the centralization of data in a secure database. The LAP contracted with Impel Strategic Solutions, Inc. to create and implement this independent system. It is now operational and is known as LAPIS, for Lawyer Assistance Program Information System. This enables the LAP to track gross trends, identify problem areas that require attention, redirect resources and evaluate the program's performance in ways not possible before LAPIS was available.

### 4. Financial Assistance

The Financial Assistance Plan was expanded to provide financial support for treatment costs when necessary. Participants may apply for financial assistance loans to help cover the cost of treatment and repay the loans once they have completed the Program.

### 5. Expanded Services

The services previously provided by the Lawyers Personal Assistance Program are now offered as part of the comprehensive services of the LAP. The LAP now offers all State Bar members brief counseling (covering up to three sessions free of charge) with a local therapist who specializes in working with legal professionals.

### 6. Office of Chief Trial Counsel

The need for LAP services for attorneys who have run afoul of the State Bar discipline system has become even more apparent over the past year. To meet this challenge Chief Trial Counsel Mike Nisperos has extended the assignment of Charles Murray in Los Angeles and Cydney Batchelor in San Francisco to handle

these cases on a full-time basis. He has also added another full-time deputy trial counsel, Brooke Schafer, to join the team in Los Angeles. The discipline cases in which drug, alcohol and mental health issues exist run the gamut from criminal convictions, to complaints from the courts, to client matters, and to situations in which attorneys die or abandon their practices. The Office of the Chief Trial Counsel (OCTC) has come to rely even more on the expertise of the LAP clinicians to provide expert advice and direction in these cases. OCTC staff attend all LAP Oversight Committee meetings, and on a national level, participate in the ABA Commission on Lawyer Assistance Programs.

## 7. Pilot Program

Attorneys with pending disciplinary proceedings and investigations related to the consequences of substance abuse and mental health issues are referred to the LAP by the State Bar Court Pilot Program . Chief Court Counsel Scott Drexel and Administrative Specialist Doug Hull closely coordinate the interaction of the Bar Court and the LAP. In order to be accepted into the Pilot Program, a respondent attorney must be accepted by the LAP and must comply with all LAP requirements. To date, 26 respondents have entered the Pilot Program, 38 are in the LAP evaluation process and four have been referred to evaluation. These 68 respondent attorneys account for 121 separate disciplinary complaints. The Pilot Program is currently undergoing extensive evaluation.

## 8. Committee of Bar Examiners

Under a new protocol between the LAP and the Committee of Bar Examiners, the Committee now routinely refers applicants with substance abuse or mental health issues to the LAP. This enables the Committee to consistently assess and monitor applicants.

## 9. Lab Testing

This year the LAP put in place a statewide system of laboratory testing of participants by random urine screening, which is essential to a realistic appraisal of progress or relapse. The Program contracted with a third party administrator experienced in providing this service to professional assistance programs throughout the nation, including other lawyer assistance programs. Participation is at the recommendation of the Evaluation Committee and is determined on an individual basis.

## 10. The Other Bar

In addition to the several MCLE presentations made jointly by the LAP and the Other Bar, a coordination meeting between the Other Bar Consultants and LAP Case Managers fostered even closer cooperation between the two programs.

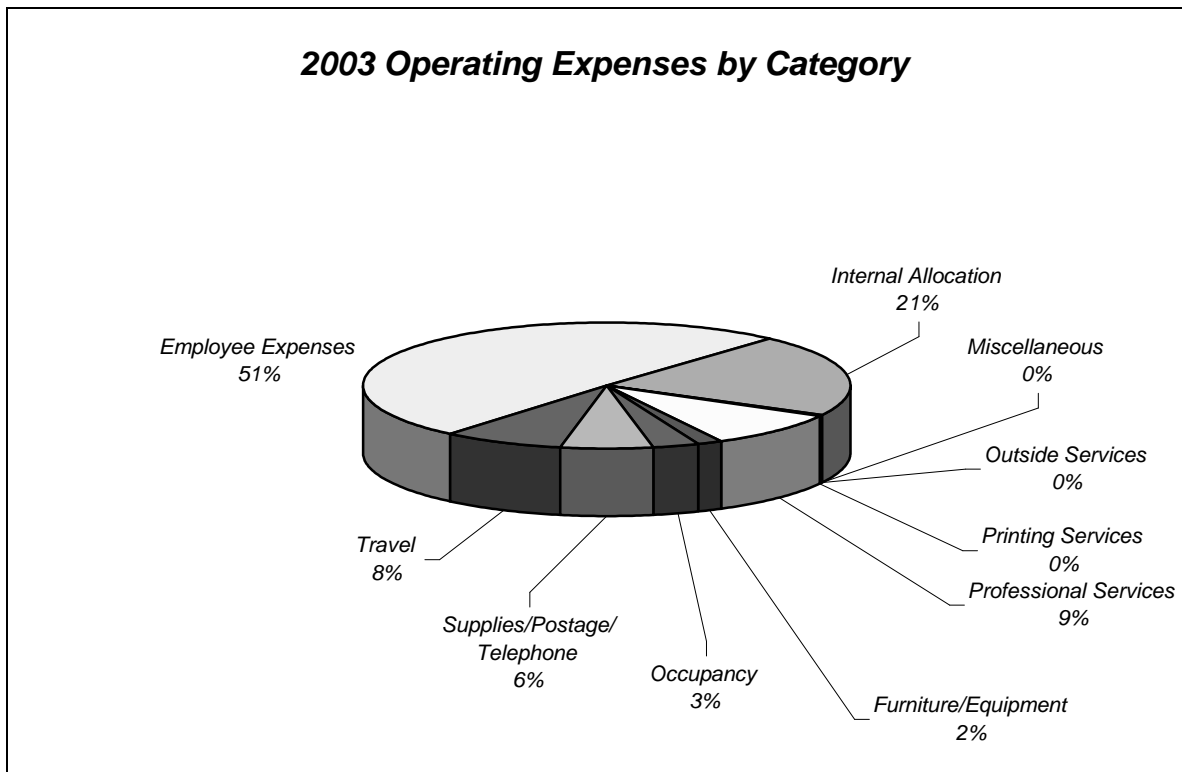
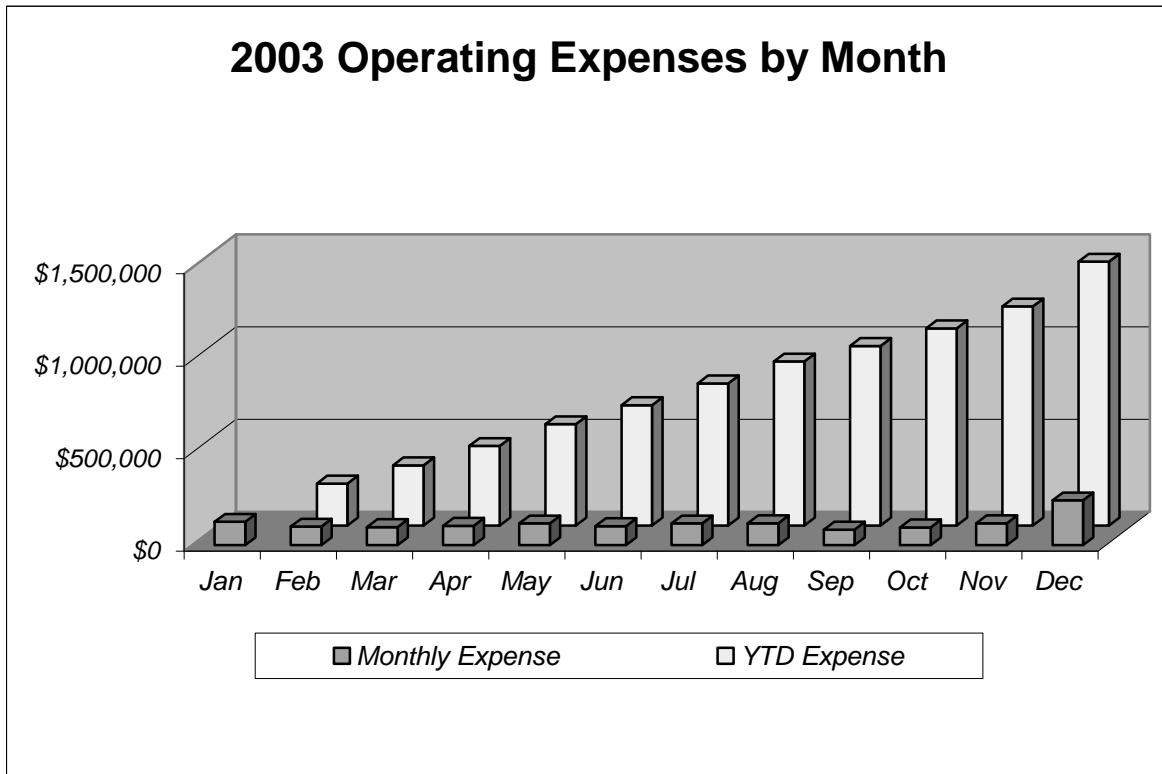
## VI. Oversight and Policies

By statute, the Oversight Committee sets policy and approves rules and criteria for the Program subject to Board approval (Bus. & Prof. Code § 6231(a)). Committee Members, who must qualify under statutory criteria, are appointed by the Board of Governors, the Senate Rules Committee, the Speaker of the Assembly and the Governor. A current roster of Oversight Committee Members is included in Appendix C.

The Oversight Committee had four multi-day meetings in 2003, including one planning session attended by all members and interested stakeholders. The Committee rewrote or clarified a number of the governing documents of the LAP. At its December meeting the Committee amended the Financial Assistance Rules by voting to require the consideration of all of a participant's assets in determining eligibility for assistance; to place a cap of \$5,000 on the assistance a participant may receive for treatment; and, absent exceptional circumstances, to limit assistance to treatment received in California.

In 2003, the Chair and Vice-Chair attended the annual meeting of the Commission of Lawyer Assistance Programs, the umbrella group of the American Bar Association for similar programs in all fifty states. This year Oversight Committee officers and LAP staff served as presenters and moderators on panels at the meetings.

## VII. Expenditures



2003 Statement of Revenue and Expense

LAP Fund	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	2003
<hr/>													
Expenses	\$126,325	\$100,571	\$97,845	\$105,148	\$117,931	\$102,690	\$117,912	\$118,743	\$83,463	\$95,846	\$118,562	\$242,575	\$1,427,611
YTD Total Expenses		\$226,896	\$324,741	\$429,889	\$547,820	\$650,510	\$768,422	\$887,165	\$970,628	\$1,066,474	\$1,185,036	\$1,427,611	<hr/>
Net Operating Surplus / (Deficit)													(\$1,427,611)
Fund Balance at the beginning of the year													754,265
Capital Assets Transferred to the Fixed Assets Fund													(6,112)
Transfer to Public Protection Reserve Fund (per Board resolution <u>August 143</u> , 2002)													<hr/> (754,265)
Fund Balance 12/31/03													(\$1,433,723)

## VIII. The LAP Looks to the Future

The LAP anticipates another banner year of growth in 2004, with increases in participants and requests for counseling that are likely to exceed those of 2003. As it continues to grow to meet those demands the Program will focus on a number of priorities. It will:

- ❑ Implement the Strategic Communications Plan developed in 2003 to ensure the LAP message receives even wider distribution to the bar, the bench and the general public, as directed by the statute (Bus. & Prof. Code § 6236);
- ❑ Encourage and publicize the increasing willingness of potential participants to refer themselves to the Program long before they become dangerous to clients or embroiled in the disciplinary process;
- ❑ Deepen involvement and alignment with Co-LAP, the American Bar Association commission coordinating lawyer assistance programs in all 50 states;
- ❑ Maintain compliance with the strategic planning initiatives adopted by the Board pursuant to statutory mandate;
- ❑ Increase coordination with volunteer organizations that provide peer support to lawyers with substance abuse or mental health issues;
- ❑ Further enhance brief counseling services with emphasis on career counseling and other preventive efforts;
- ❑ Expand the collection of data for LAPIS to facilitate additional measurements of program effectiveness;
- ❑ Explore collaboration with the Office of Chief Trial Counsel and the State Bar Court to produce a training video for use by the membership, bar defense counsel and the State Bar Court, and for MCLE credit;
- ❑ Establish an Outcomes Study Task Force comprised of Oversight Committee members, evaluation specialists, and LAP staff to design and implement a plan for a comprehensive outcome evaluation of the Program;
- ❑ Continue pursuit of alternative sources of revenue from non-dues sources such as foundations, charitable institutions, law firms and insurance companies, and explore the possibility of creating an independent LAP Foundation;
- ❑ LAP staff will be responsible for the oversight and management of a one-year pilot program contract with the Other Bar to provide peer counseling and assistance with MCLE and other educational outreach; this will include working closely with the Other Bar to collect demographic information on all attorneys seeking

assistance in California and thus establish the full scope of services needed by the target population;

- ❑ Survey the Bar's membership to determine the effectiveness of the Program's outreach efforts, knowledge of the Program, and the impact of its work on the discipline system and the Client Security Fund.

## IX. Conclusion

Accumulated experience is revealing the farsighted wisdom of the Legislature and the State Bar Board of Governors in establishing the Lawyer Assistance Program. The near doubling of attorney participants in the LAP and the tripling of those seeking counseling during 2003 demonstrate the Program's growing acceptance among not only those attorneys seeking assistance, but also by the bench, related Bar groups, and self-help organizations.

Every indication is that the Program will continue to expand at this rapid pace and accomplish its central goals: to support recovering attorneys in their rehabilitation and competent practice of law, enhance public protection, and maintain the integrity of the legal profession.



# X. Appendices

## Appendix A

### **ATTORNEY DIVERSION AND ASSISTANCE ACT**

Business And Professions Code

§§6230-6238

(Added by SB 479 (Burton), Chapter 129, Statutes of 2001;  
Amended by AB 1708 (Assm. Judiciary Committee,  
Chapter 334, Statutes of 2003)

6230. It is the intent of the Legislature that the State Bar of California seek ways and means to identify and rehabilitate attorneys with impairment due to abuse of drugs or alcohol, or due to mental illness, affecting competency so that attorneys so afflicted may be treated and returned to the practice of law in a manner that will not endanger the public health and safety.

6231. (a) The board shall establish and administer an Attorney Diversion and Assistance Program, and shall establish a committee to oversee the operation of the program. The committee shall be comprised of 12 members who shall be appointed as follows:

(1) Six members appointed by the Board of Governors, including the following:

(A) Two members who are licensed mental health professionals with knowledge and expertise in the identification and treatment of substance abuse and mental illness.

(B) One member who is a physician with knowledge and expertise in the identification and treatment of alcoholism and substance abuse.

(C) One member of the board of directors of a statewide nonprofit organization established for the purpose of assisting lawyers with alcohol or substance abuse problems, which has been in continuous operation for a minimum of five years.

(D) Two members who are attorneys, at least one of which is in recovery and has at least five years of continuous sobriety.

(2) Four members appointed by the Governor, including the following:

(A) Two members who are attorneys.

(B) Two members of the public.

(3) One member of the public appointed by the Speaker of the Assembly.

(4) One member of the public appointed by the Senate Rules Committee.

(b) Committee members shall serve terms of four years, and may be reappointed as many times as desired. The board shall stagger the terms of the initial members appointed.

(c) Subject to the approval of the board, the committee may adopt reasonable rules and regulations as may be necessary or advisable for the purpose of implementing and operating the program.

6232. (a) The committee shall establish practices and procedures for the acceptance, denial, completion, or termination of attorneys in the Attorney Diversion and Assistance Program, and may recommend rehabilitative criteria for adoption by the board for acceptance, denial, completion of, or termination from, the program.

(b) An attorney currently under investigation by the State Bar may enter the program in the following ways:

(1) By referral of the Office of the Chief Trial Counsel.

(2) By referral of the State Bar Court following the initiation of a disciplinary proceeding.

(3) Voluntarily, and in accordance with terms and conditions agreed upon by the attorney participant with the Office of the Chief Trial Counsel or upon approval by the State Bar Court, as long as the investigation is based primarily on the self-administration of drugs or alcohol or the illegal possession, prescription, or nonviolent procurement of drugs for self-administration, or on mental illness, and does not involve actual harm to the public or his or her clients. An attorney seeking entry under this paragraph may be required to execute an agreement that violations of this chapter, or other statutes that would otherwise be the basis for discipline, may nevertheless be prosecuted if the attorney is terminated from the program for failure to comply with program requirements.

(c) Neither acceptance into nor participation in the Attorney Diversion and Assistance Program shall relieve the attorney of any lawful duties and obligations otherwise required by any agreements or stipulations with the Office of the Chief Trial Counsel, court orders, or applicable statutes relating to attorney discipline.

(d) An attorney who is not the subject of a current investigation may voluntarily enter, whether by self-referral or referral by a third party, the diversion and assistance program on a confidential basis. Confidentiality pursuant to this subdivision shall be absolute unless waived by the attorney.

6233. An attorney entering the diversion and assistance program pursuant to subdivision (b) of Section 6232 may be enrolled as an inactive member of the State Bar and not be entitled to practice law, or may be required to agree to various practice restrictions, including, where appropriate, restrictions on scope of practice and monetary accounting procedures. Upon the successful completion of the program, those attorney participants on inactive status who complied with any and all conditions of probation shall be eligible for reinstatement to active status and a dismissal of the underlying allegations or a reduction in the recommended discipline. Those attorneys who participated in the program with practice restrictions shall be eligible to have those restrictions removed and to a dismissal of the underlying allegations or a reduction in the recommended discipline.

6234. Any information provided to or obtained by the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, shall be as follows:

(a) Confidential and this confidentiality shall be absolute unless waived by the attorney.

(b) Exempt from the provisions of Section 6086.1.

(c) Not discoverable or admissible in any civil proceeding without the written consent of the attorney to whom the information pertains.

(d) Not discoverable or admissible in any disciplinary proceeding without the written consent of the attorney to whom the information pertains.

(e) Except with respect to the provisions of subdivision (d) of Section 6232, the limitations on the disclosure and admissibility of information in this section shall not apply to information relating to an attorney's noncooperation with, or unsuccessful completion of, the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, or to information otherwise obtained by the Office of the Chief Trial Counsel, by independent means, or from any other lawful source.

6235. (a) Participants in the Attorney Diversion and Assistance Program shall be responsible for all expenses relating to treatment and recovery. In addition, the State Bar may charge a reasonable administrative fee to participants for the purpose of offsetting the costs of maintaining the program.

(b) Notwithstanding subdivision (a), the State Bar shall establish a financial assistance program to ensure that no member is denied acceptance into the program solely due to the lack of ability to pay.

6236. The State Bar shall actively engage in outreach activities to make members, the legal community, and the general public aware of the existence and availability of the Attorney Diversion and Assistance Program. Outreach shall include, but not be limited to, the development and certification of minimum continuing legal education courses relating to the prevention, detection, and treatment of substance abuse, including no-cost and low-cost programs and materials pursuant to subdivision (d) of Section 6070, informing all members of the State Bar of the program's existence and benefits through both direct communication and targeted advertising, working in coordination with the judicial branch to inform the state's judges of the program's existence and availability as a disciplinary option, and working in cooperation with organizations that provide services and support to attorneys with issues related to substance abuse.

6237. It is the intent of the Legislature that the authorization of an Attorney Diversion and Assistance Program not be construed as limiting or altering the powers of the Supreme Court of this state to disbar or discipline members of the State Bar.

6238. The committee shall report to the Board of Governors and to the Legislature not later than March 1, 2003, and annually thereafter, on the implementation and operation of the program. The report shall include, but is not limited to, information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance, and annual expenditures related to the program.

## Appendix B

# Rules and Regulations Governing the Lawyer Assistance Program

### **Scope and Purpose**

The Lawyer Assistance Program (LAP) was established by the Legislature as a means of identifying and rehabilitating attorneys with impairments due to the abuse of drugs or alcohol, or due to mental illness.

Pursuant to the Business & Professions Code section 6231, the board will establish a committee to oversee the operation of the Lawyer Assistance Program. Section 6231 (c) further provides that with the approval of the State Bar's Board of Governors "the committee may adopt reasonable rules and regulations as may be necessary or advisable for the purpose of implementing and operating the Program."

### **Rule I**

#### **Oversight Committee: General Powers**

Section 1. The Oversight Committee appointed by the State Bar of California, the Governor, the Speaker of the Assembly and the Senate Rules Committee pursuant to the provisions of the State Bar Act will be known as the Lawyer Assistance Program Oversight Committee ("Committee")

Section 2. The members of the Committee will serve terms of four (4) years and may be reappointed as many times as desired. The board will stagger the terms of the initial members appointed.

Section 3. The Committee will, on an annual basis, submit to the Board its recommendation for the appointment of a Chair and Vice-Chair, selected from among its members by a majority vote of the members appointed and sitting.

Section 4. Meetings of the Committee may be held at such places in California and at such times as may be fixed by the Committee. Meetings may also be held at the offices of the State Bar, either in San Francisco or Los Angeles, at the call of the Chairperson or the Vice-Chairperson. Notice of the time and place of all meetings will be given in accordance with the Board of Governors of the State Bar of California's Policies Governing Open Meetings, Closed Sessions, and Records of Regulatory Committees.

Section 5. For the transaction of business, a quorum of the Committee will consist of one-half of all members appointed and sitting, plus one. However, less than that number may adjourn from day to day.

Section 6. The Committee is empowered to appoint subcommittees to facilitate the purpose and administration of these Rules. The Committee may act in any matter by a subcommittee composed of not less than two Committee members.

Section 7. Subject to the approval of the Board of Governors, the Committee may adopt reasonable rules and regulations as may be necessary or advisable for the purpose of implementing and operating the Program.

Section 8. The Committee will establish practices and procedures for the acceptance, denial, completion, or termination of attorneys participation in the Program, and it may recommend rehabilitative criteria for adoption by the Board of Governors.

Section 9. Written notice may be given by personal service or sent by mail, postage prepaid, addressed to the participant at the participant's official membership records address, and if sent by mail, will be deemed to have been received by the addressee five (5) days after deposit in the mail if the address is within the State of California, ten (10) days after deposit in the mail if the address is outside the State of California but within the United States, and twenty (20) days after deposit in the mail if the address is outside the United States.

Section 10. Unless specified otherwise in these rules, any forms, letters, applications or documents will be deemed filed with the Committee at the earlier of the following:

- (a) When actually received in substantially complete form as defined by the Committee, by the Committee at the State Bar offices in either San Francisco or Los Angeles;
- (b) On the date of the first postmark thereon if the form, letter, application or document is substantially complete as defined by the Committee and was placed in the United States mail postage prepaid and addressed to the Committee at either the State Bar's San Francisco or Los Angeles Offices.

## **Rule II**

### **Eligibility for Admission to the Lawyer Assistance Program: General Requirements**

Section 1. Any attorney may voluntarily enter the Program, for treatment purposes, on a confidential basis. Confidentiality pursuant to this section will be absolute unless waived in writing by the attorney.

Section 2. An attorney currently under investigation by the State Bar or following the initiation of a disciplinary proceeding, may also enter the Program by:

- a. referral of the Office of Chief Trial Counsel;
- b. by referral of the State Bar Court;

Section 3. Acceptance into, or participation in, the Program will not relieve an attorney who voluntarily enters the Program while under investigation, or following the initiation of

a disciplinary proceeding, of any lawful duties or obligations otherwise required by any agreements or stipulations with the Office of the Chief Trial Counsel, court orders, or applicable statutes relating to attorney discipline.

### **Rule III**

#### **Administrative Costs and Fees**

Section 1. Attorneys will be responsible for payment of all expenses relating to treatment and recovery, including but not limited to the costs of hospitalization, drug testing, group meetings, individual therapy, etc.

Section 2. A reasonable administrative fee may also be charged to attorneys for the purpose of offsetting the costs of administering the Program.

Section 3. To ensure that no member attorney is denied acceptance into the Program solely due to the lack of ability to pay, member attorneys may apply for financial assistance from the fund established for this purpose by the State Bar.

Section 4. Former members may apply to participate in the Program. Former members are not eligible for program sponsored financial assistance.

### **Rule IV**

#### **Confidentiality**

Section 1. An attorney who is not the subject of a current investigation may voluntarily enter the Program on a confidential basis. This confidentiality will be absolute unless waived by the attorney.

Section 2. Any information provided to or obtained by the Program, or any subcommittee or agent thereof, will be:

- (a) confidential, and this confidentiality will be absolute unless waived in writing by the attorney;
- (b) exempt from the provisions of Business and Professions Code section 6086.1;
- (c) not discoverable and/or not admissible in any civil proceeding, without the written consent of the attorney to whom the information relates;
- (d) not discoverable and/or not admissible in any disciplinary proceeding, without the written consent of the attorney to whom the information relates to;
- (e) except with respect to the provisions of subsection (c) of Business and Professions Code section 6231, the limitations on the disclosure and admissibility of information set forth in this section will not apply to information relating to an attorney's failure to cooperate with the Program, or with an attorney's unsuccessful completion of the Program.

**Rule V**  
**Impact on Discipline**

Section 1. Acceptance into or participation in the Program will not relieve the attorney of any lawful duties and obligations otherwise required by any agreements or stipulations with the Office of the Chief Trial Counsel, court orders and applicable statutes relating to attorney discipline.

Section 2. The extent to which an investigation is terminated, formal charges are dismissed, or the level of discipline is reduced as a result of an attorney's participation in the Program, will be entirely dependant upon the terms of the attorney's agreement with the Office of the Chief Trial Counsel or the decisions or orders issued by the State Bar Court.

## Appendix C

Members of the Oversight Committee			
Name	Background	Appointed By	Statutory Role
James E. Blancarte, J.D.	Attorney in private practice in Los Angeles, former member LA City Fire Commission	Governor	Attorney
Edwin Caldwell, L.L.B.	Attorney in private practice in San Rafael	Board of Governors	Founder of the Other Bar
Richard Carrillo	Investigator- California DMV, former teacher and police officer	Governor	Public Member
Kellie M. Condon, Ph.D.	Clinical psychologist Veteran Affairs Greater Los Angeles Health Care System	Board of Governors	Mental Health Professional
Mitchell Englander	Chief of Staff LA City Council member Greg Smith, Pres. CA AAPC, Board Member LA Chapter American Diabetes Association	Speaker of the Assembly	Public Member
Richard Ewaniszyk, J.D.	Attorney in private practice in Victorville	Board of Governors	Board of Directors of the Other Bar
David S. Hobler, J.D.	Attorney in private practice in Mill Valley; founder and director Fit in Recovery	Governor	Attorney
Stewart Hsieh, J.D.	Attorney in private practice in Los Angeles; former President of the Medical Board of California	Board of Governors	Attorney
Michael S. Parr, M.D.	Physician and addiction specialist in private practice in Sacramento	Senate Rules Committee	Public Member
Norman T. Reynolds, M.D., FAPA	Psychiatrist in private practice in San Jose	Board of Governors	Physician
John H. Shale, M.D., J.D.	Medical Director of the San Diego County Adult Mental Health Services	Board of Governors	Mental Health Professional
Dorothy Tucker, Ph.D., Ph.D.	Psychologist; Los Angeles Police Department; member, State Bar Board of Governors	Governor	Public Member



## Appendix D

### Evaluation Committee Member Roster

#### EC South I

1. Mickey N. Ask, MD
2. Michael Stulberg, MD
3. (Attorney Member to be added)

#### EC South II

1. Shannon Chavez, MD
2. Betty Brock, RN
3. Philip Belleville, JD, MAC, MS

#### EC North I

1. Jim Tracy, DDS, CADC
2. Lyman Boynton, MD
3. Robert Stewart, JD

#### EC North II

1. Nancy K. Otterness, PhD
2. Craig D. Weiner, MD
3. Robert J. Sullivan, JD

## Appendix E

### Group Facilitator Roster

- James Conway, MFT- Culver City
- Tim Willison, MFT- Davis, Petaluma, Fremont, San Francisco, Sacramento
- James Driscoll, CADC- Fresno
- Larry Collins, MFT- Chico
- Kim Nakae, MFT- San Fernando Valley
- Len Wegiel, MFT- San Diego
- Dean Janoff, PhD-Santa Barbara
- Donna Gugliotta, MFT-Tustin
- Morris Gelbart, PhD- Torrance

## Appendix F

### LAP Staff Roster 2003

Starr Babcock, JD	Special Assistant to the Executive Director
Janis Thibault, MFT	Director
Richard Carlton, MPH	Deputy Director
Rita Zahir	Program Coordinator
Nessa Williams	Administrative Assistant
Jeanie Griffin, MA, CADC	Case Manager (So. California)
Brian Jalbert, MFT	Case Manager (So. California)
Greg Miller, MFT	Case Manager (No. California)
Pam Poley, MFT	Case Manager (No. California)
*Office of General Counsel	
Patricia Scotlan, JD	Assistant General Counsel

## Appendix G

### Stressed out? State Bar can help

By Kristina Horton Flaherty

California *Bar Journal* – July 2003

Los Angeles attorney Anita Stuppler was close to falling apart at “the law firm from hell” when she discovered that she could get career counseling through the State Bar. Today, less than a year later, she is doing what she loves — teaching law and tutoring candidates for bar exams — and making as much money as she did in her old job. It was the career counseling, she says, that helped her muster enough “guts” to launch her own full-time business doing what she’d been doing on the side for more than 20 years.

“The handwriting was all over the wall and I couldn’t see it,” Stuppler said recently. “I always wanted to have a tangential connection to law and I’ve always loved teaching. So this is perfect.”

Increasingly, attorneys with job-related troubles — stress, burnout, failed job searches or even the desire to leave law altogether — have been turning to the State Bar’s Lawyer Assistance Program (LAP) for help. In response, the program has been sending such attorneys to brief career counseling free of charge.

“I began to incorporate this into the program over time as more and more people were coming to me,” says Richard Carlton, LAP’s deputy director. “I’ve encountered more people trying to make a significant transition in the nature of the legal work they’ve been doing, or wanting to transition out.”

Various factors seem to be triggering the uptake in calls, he says. With the economic downturn, some attorneys are struggling for longer periods without steady work. Certain legal jobs have all but dried up. In addition, Carlton points out, the pressures involved in practicing law have intensified. The practice has become more technologically driven, and clients and the entire legal system now expect a more immediate response from attorneys, an expectation that can be particularly hard on solo practitioners. “It’s just increasingly more difficult,” he says, “for people to survive in the current practice of law.” Carlton wants to spread the word that brief career counseling, a little-known aspect of LAP, is available to any State Bar member who feels he or she would benefit from it. The laid-off attorney with a strong resume, good experience and the goal of getting a similar job may head directly for a legal recruiter. But the unemployed lawyer with a non-traditional background or the unhappy working attorney might discover some additional job search tools or new options through career counseling.

Take Stuppler, for example. Admitted to practice law in seven states, the 57-year-old attorney has worked for a state human resources commission, for a district attorney’s office, for a city controller’s office, as a placement director for a law school, as a hearing officer for parking tickets and as a seventh-grade schoolteacher. Throughout it all, she tutored candidates for bar exams and taught law school courses on the side. Career counseling helped give her the “extra boost,” she says, to finally become a full-time, self-employed teacher and tutor.

Career counselors say that when economic times are good, their clients are more apt to be seeking a career change. In bad times, more just want help getting a job. But such counselors also counsel women struggling to balance law careers with family lives, senior partners seeking an exit strategy and associates who simply want to change what they do

within their firm.

There are those who want out of the legal profession entirely. Some go into fundraising. One attorney became a museum curator. Another launched a scuba diving business and still another joined the FBI. But counselors say fewer than one in three clients (the estimate varies by counselor) leave the law completely.

"A lot of times they think they want to get out of the law," says Stuppler's former counselor, Susan W. Miller of California Career Services in Los Angeles.

Counseling can be useful in such instances, Miller says. Then the attorney's decision, whether it is to leave or not, will be a conscious one made after examining the options and tradeoffs, which usually include a pay cut. For those attorneys simply looking for a job, Miller reviews the individual's marketing tools, strategies and resources, and may help hone a resume or interviewing skills.

But for those seeking a career change, the process typically involves an assessment interview, setting priorities and a look at occupational alternatives and local labor market research. Clients may also tap into Miller's network of mentors to further explore a potential career.

Unhappy in her first law firm job after passing the bar several years ago, attorney Michelle Surfas was questioning her career choice when she discovered career counseling. "I'd really started to freak out a little," she recalls.

Meeting with Miller in early 2001, Surfas underwent an assessment and a series of tests.

"Every single one of them pointed to my becoming a teacher," she says, "and that happened to be one of the things I was considering before going to law school."

After exploring her options and talking to other teachers, including her mother, Surfas quit her job, moved home and began substitute teaching. Within months, she had a job teaching junior high school in Anaheim while earning her credential. Currently, she is working toward a master's degree in educational administration as well.

For her, career counseling played a key role. "It was an outsider who had nothing to gain or lose by speaking to me," says Surfas, now 30. Miller "validated my ideas and took away my fears, or helped alleviate them anyway."

Career counselor Hindi Greenberg knows personally what it takes to make a career transition. After working as a business litigator for a decade, she launched her own career counseling service for attorneys. She recalls a friend saying, "No one is going to pay you to do this." Today, 18 years later, Greenberg has a databank of some 15,000 attorneys. For many, a shift within the legal arena is enough, Greenberg and other counselors say. Greenberg recalls working with one litigator who, through counseling, decided to move into appellate work. He liked the theoretical side of law and disliked the litigator's irregular schedule. With Greenberg's help, he pitched a proposal to develop an appellate practice within his own firm. The firm, which had been referring such work elsewhere, gave him the job.

These days, however, Greenberg is spending more time buoying up discouraged attorneys in a tough job market. She helps them examine how they might parlay their legal skills into a slightly different legal area and addresses fears triggered in part by media reports of the hard-hit economy. She has seen some success for those who are flexible. "Those who persevere often can find something," she says.

Career counselor Sue Aiken at the Bay Area Career Center in San Francisco says that most of her attorney clients, in both good economic times and bad, are simply burned out, disillusioned or seeking a career change of some sort. "If your career is not aligned with

who you are as a human being and you're working at odds with your own value system," she says, "then that's where the burnout comes in."

Aiken has found that the process can help people sort out their issues and open their eyes to new possibilities. "It helps people to realize that they do have options," she says. "It helps them to get unstuck."

For more information on the brief counseling services offered through the State Bar's recently established Lawyer Assistance Program, call 1-800-341-0572. A consultant will be available to discuss your career issues or personal problems negatively impacting your work and can arrange for up to three counseling sessions.

LAP also offers a structured recovery program (1-866-436-6644) in which attorneys with substance abuse problems or mental illness can get extensive assistance with their recovery efforts.